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# LETTER

TO

Mr. *Archibald Cleland,*

OCCASIONED

By his *full Vindication of his Appeal*  
*to the Public* against the Proceedings  
of the BATH-HOSPITAL.

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L O N D O N :

Printed for J. ROBERTS in *Warwick-Lane.*

M DCC XLIV.

WHEREAS an Advertisement was publish'd  
in several News Papers in February last, promising a full Reply  
and Vindication of a Pamphlet, call'd A short Vindication of the Pro-  
ceedings of the Governors of the General Hospital at Bath, &c. and a full  
Vindication of Mr. Cleland's Appeal, &c. and as no such Reply or Vindi-  
cation have yet been publish'd, several Gentlemen who are Well Wishers  
to the said Hospital, and the laudable Designs it was intended for, hereby  
request, that the said Reply and Vindication may be speedily published, that  
they and the Publick may judge impartially whether the said Governors  
or Mr. Cleland have been more culpable, and be enabled to give their  
Opinions thereon, in order to encourage those laudable Designs which the  
said Hospital was intended for.



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# LETTER

T O

Mr. Archibald Cleland.

S I R,



WHEN I see what a Set of strange Correspondents you have had the peculiar Goodness to encourage, and bring out to plead your Cause; some without Names, who for ought you know may be Cheats, and others with fictitious ones, who for certain are so; I venture to conclude, that this Address from a Stranger will be so far from needing an Apology, that it will rather recommend itself to you on that very Account. It was at the Instance of one of those, as you give us to understand, that you lately published the *full Vindication of your Appeal*; and while you are in this obliging Humour, you won't, I hope, be less indulgent to another, whose only Purpose is to let you understand, how little Thanks you owe to him who set you on work.

For the first Thing that will occur to your Reader is, that the Fact for which you have

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been censured, stands confessed by you. Nor is that all; you own it was an *Impropriety*, and for that Reason *wish it had been undone* \*. The Question then between you and the Hospital is only this, whether the Fact was as *criminal* as you allow it to have been improper. You say, No; and think it reasonable that they should take your Word, because nothing but a *vicious Intention* could make it criminal; and inquiring into that, is invading the Prerogative of *the great Searcher of Hearts* †. But in this you seem to be mistaken: For tho' human Judicatories meddle not with the *Intention* before it proceeds to *Act*; yet after that, it becomes, in many Cases, the usual Object of their Inquiry, as, in most personal ones, the Intention *denominates* the Action. It only rests then to consider, whether this, which the Governors have deemed criminal, was attended with such Circumstances, as might enable them to judge with moral Certainty of the Intention. I suppose it was; and for these Reasons, I. Because it is confessed that in this you invaded the Province of the other Physicians and Surgeons, in treating their Patients without their Consent or Knowledge. II. Because the Physicians who voted for your Dismission, and who are as eminent and



and learned as any in their Profession, have declared that there was no Sort of Occasion to treat those Patients with the Freedom complained of, either to promote their Cure, or to improve the Art of Healing in general.

III. Because your Character (to me altogether unknown) is, I suppose, very well known to the Governors concerned. Their *Knowledge* therefore, strengthened by the two foregoing Circumstances, I conclude, might enable them to judge with tolerable Certainty of your Intention.

The next thing then to be considered is, whether the Censure passed upon you was proportionate to the Crime. And this (without entering into its Nature or Circumstances) I suppose no one will doubt, who considers that of all the various Corrections of Disorders, that which goes no further than just to hinder the Repetition of the Offence is the most justifiable, because necessary. But what other Way was there of hindering it, in your Case, than by discharging you from an Employment, that gave you an easy Admission to return to it as often as you should think fit? It is true indeed, that Punishments of this Kind (if a necessary Restraint can properly be so called) are generally attended with Loss of Fortune and Reputation. But your Office

being without Salary, you suffered nothing in your Fortune: and the Governors concerned were so particularly tender of your Reputation, that tho' it was a *Crime* complained of, a *Crime* inquired into, and a *Crime* for which you was dismissed; yet when that had been fully made out to the Satisfaction of thirteen competent Judges, the Vice-President Dr. Oliver, in summing up the whole Evidence, at the Conclusion of the Proceedings, affectedly declined taking the least Notice of the *vicious Purpose*. I mention this, not so much to inform the unprejudiced Reader of the Moderation, and even Tenderness of the Governors to you on this Occasion, for he would presume no less from their known Characters of Dispassion and Humanity, but principally to shew the unworthy Use you and your Friends have made of it. First, the Reverend Mr. W. C. takes it up; and wanting a fit Reason of his Dissent from the rest of the Governors, he writes them a Letter expressing his Dissatisfaction with their Sentence, grounded chiefly upon this, That Dr. Oliver, *in the summary Account he gave of the whole Proceeding, did not so much as remotely hint any immodest Intention in you* \*. This Letter you have served up the second time in Print, to possess the Reader

Reader with an Opinion of your hard Treatment. And now you found their Moderation might be turned to so good Purpose, you have dressed it up again for the Foundation of another Piece of Finess not at all inferior to the former. A current Report is pretended to have gone abroad, that you was dismissed from the Office of Surgeon to the General Hospital in Bath, for debauching, or attempting to debauch two Women Patients in the said Hospital. And the Reverend Mr. S. and your trusty Friend the Reverend Mr. W. C. are to sign a Certificate, which you are to publish, of the Falshood of this Report; in which they say, that *to the best of their Knowledge there was not a Word dropt, nor even a remote Hint given, of such Charge made against you by the Women Patients, or in the whole Proceeding* †. Now give me Leave to ask, Was this false Report spread or encouraged by the Thirteen Governors, or any of them? If it was, why are they not charged with it? This would be a much better Proof of the hard Treatment you complain of, than any you have yet given us. If it was not, why is the Certificate inserted in a Defence of yourself against their Proceedings? Can any other reasonable Account be had of it than this, Your  
 Hopes



Hopes that the fallacious Manner in which the Words are conceived, as referring to Dr. Oliver's Silence, might mis-lead the unwary Reader to conclude, that you was so far from being charged with an Attempt to debauch, that you was not even suspected of an *immodest Intention*.

But what your Divines fail in (and 'tis plain they failed not for want of good Will) your Lawyers are to make out. The Proceeding against you (they say) was not agreeable to Forms of Law, or to the Rules observed in Courts of Justice for criminal Prosecutions, and therefore illegal. But the Conclusion, you draw from it, seems to be your own, that this which deviated from the Forms of Law was an equal Offence against right Reason. But let us first reply to your learned Council. The Necessity incumbent on all incorporate Societies (such, I mean, as have no proper Jurisdiction entrusted to them) of observing the Forms of Law in proceeding against their own Servants, must arise either from some positive general Law, or from the Nature of the Thing. Positive Law, I presume, they pretend to none. And to induce the Necessity from the Nature of the Thing, it will lie upon them to prove, that the Observation of the Form is essential to the Equity  
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of the Decision. But this cannot be said without condemning the Administration of Justice in all Countries but their own; in none of which their Forms of Process are observed. For the Question here is not of those universal invariable *Rules of Equity*, such as that no one shall be condemned unheard; (for those it is not so much as pretended the Governors have transgressed) but of mere *Forms of Law*; which being only used for the more ready and commodious Administration of Justice, every Country invents such as are most agreeable to the Manners of its People, and the Genius of its Constitution. However, some or other, all well regulated Courts of Justice must employ. You may then ask, How it comes to pass that this which is so fit for a fixed Judicatory can be so easily dispensed with in the Case before us? The Answer is plain, those Judicatories would be unable to go thro' their Multiplicity of Business with Precision and Dispatch without some stated Forms. But an incorporated Society which has no other Authority (for Jurisdiction it is not) than to inquire into the Behaviour of their own Servants and Officers, and to dismiss them as they see Occasion, has evidently no Need of any Forms of this Kind.

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But farther; this, which neither Law nor Reason required of the Governors, their very Act of Incorporation has formally discharged them from the Observance of. For 'tis expressly enacted, That the Governors may remove their Officers and Servants at their **WILL AND PLEASURE**. But to this perhaps your learned Council may object (and I will put nothing into their Mouths they need be ashamed of) that indeed the Act impowers the Governors to dismiss a Servant or Officer at their *Will and Pleasure*, that is, without any Cause assigned. But if they will assign a Cause, as that demands a previous Inquiry into the Demeanor of such Servant or Officer, the Proceedings on that Inquiry ought to be judicially regular, because the Sentence of Dismissal which follows an Inquiry, and is grounded on a Cause assigned, is attended with Ignominy; not so the other, which is grounded on mere *Will and Pleasure*. In Answer to this I would ask, Whether it be possible to suppose that, by these Words, the Legislature should mean that the Governors might wantonly and capriciously, and merely to shew their Power, put in and out at random. If they say no, (which certainly they cannot avoid) but that their Power of Dismissal is confined to just Causes only, which  
must



must needs be first inquired into before they can be assigned; I will then ask, How this Power came to be conveyed to them by so large an Expression as *Will and Pleasure*? And let them consider, whether any other reasonable Account can be given of it than this, that the Legislature, in their great Wisdom, foresaw what Cavils of this Nature might arise, had the Governors been only impowered to remove their Servants and Officers for Misdemeanors proved against them, and therefore conveyed it in the largest and least exceptionable Terms.

And now we come to your Consequence, that a Deviation from the Forms of Law is an equal Offence against right Reason. This, as we observed before, seems to be your own, and not chargeable on your learned Council. For to do the Lawyers Justice (those of them, I mean, who are about the Level of your Advisers) it must be owned, they care little how a Case stands with Reason, when they have once proved it to be against the Forms of Law. And truly did they know no more of the Matter than you, one could not well blame them for stopping where they do. For why, I pray you, is transgressing the Forms of Law, transgressing the Rules of Reason?

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You will say, Because those Forms are agreeable to Reason, and therefore whatever is contrary to them must be disagreeable. By the same Logic I would prove, that because it is agreeable to Reason, in casting up a Sum Total from a Number of Particulars, to begin at the Bottom and go upwards, that therefore to begin at the Top and go downwards (which is the contrary Way) is disagreeable to it. I chuse the Instance of this Operation, for the sake of the Relation it bears to the Case in hand. For what is coming to the Knowledge of a Fact, but reckoning all the Particulars that go to make it up, and giving to each it's true Value? And if you omit none in the Account, what matters it in what Order you take them?

When therefore your Correspondent talks for you, or you for him, of bringing an *Action of Defamation* † against the *Thirteen* Governors concerned in your Dismission; what is this but copying after the Irish Felon, who threatened the Judge and his *Twelve* Confederates with an *Action of Battery* for putting him in Fear of his Life?

For yours it seems (and now we come to your last Charge against the Governors) was, like the honest Irish Man's, a Confederacy of  
Twelve

Twelve, with one worse than all the rest at their Head. The Proofs you condescend to give us of this unnatural Conspiracy are very curious. The *First* is, that *when a true Genius appears the World may know him by this Sign, The Dunces are all in Confederacy against him* \*. This, I confess, is decisive; and I wonder you should think of another. However, you have a *Second* as good, which is, *That the Thirteen had private Meetings to concert the Charge against you.* But what I most admire is the Induction: *Nothing* (say you) *can be plainer, than that 'tis impossible so many should agree in one Point of Fact, at the same time, without previously communicating their Designs to one another* †. The Argument, we see, proceeds well. You would prove a *Confederacy* from *private Meetings*; and these *private Meetings*, you prove, from the *Supposition* of a *Confederacy*: Otherwise the convincing Reason of *so many agreeing in one Point of Fact* would, by an ordinary Reader, be understood only to imply their full Persuasion of your Guilt. But as if their being Dunces and Knaves was not enough to convict them of confederating against you, your *Third Proof* is, *That they are Persons of*  
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small and low Fortunes and Stations ; and, as such Men are known to be always ready to run into Plots and Conspiracies, this, I confess, was not ill imagined. *If I had added* (says you) *that they* [the Thirteen Governors] *were amongst the Persons of the lowest Fortunes and Stations in the whole Corporation, I had not done any great Injury to MANY of them* \*. That is, if what you say in Disparagement of the Thirteen be true of a *Part* of them, you may honestly say it of the *Whole*. An admirable Specimen of your distributive Justice. But you are vastly too modest : for if you have done them no *Injury*, you have done them a great deal of Honour ; it being very certain, that these *Persons of the lowest Fortunes and Stations in the whole Corporation*, are, by much, the largest Benefactors to the Hospital. Who then can chuse but smile, to see a Woman of Condition, because she happens to be amongst the Croud of Contributors, endeavouring, in a public Advertisement, to free herself from the Scandal of continuing her Charity to the Hospital after your Dismission ; and declaring, she will give no more till you be restored ? But what if He †, whom you insinuate to be at the Head of this Conspiracy, should chance

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\* Page 15.

† Mr. Allen.

to be in the same Humour, and would give no more after your Restoration than she will give before it? A Man who, I believe in my Conscience, has, in the Compass of one short Life, done more and greater Acts of Charity and well-weighed Bounty, than this Woman and all her Generation since the first Bog in Ireland was inhabited. The thing then would become a very serious Affair. But the Friends of the Hospital have nothing to fear from that Quarter: For while the Charity can be made to serve any virtuous Purpose (indeed what Obstruction to that, he may think your *Restoration*, I know not) the Hospital is sure of finding a Support in his unwearied Beneficence.

These are the Proofs you give us of a Confederacy against you. It is true, that you insinuate still stronger in reserve. For thus your Vindication concludes, — *Tho' the Provocations I have long received might tempt a Man of a less peaceable Disposition, to expose both the Actions and the ACTORS; yet after this fair and public Notice, I hope their future Conduct will not reduce me to so disagreeable a Necessity.* Now if you would know to what Part of your Pamphlet you are more particularly indebted for my Correspondence, you need only

ly look back upon the threatening Language of this extraordinary Conclusion.

But to return to the Confederacy : ——— Seriously, you here seem to push the Point too far. We now begin to lose all View of the *probable*, a thing so necessary in every well-concerted Tale. Had you only told us, that a Number of good intentioned People, watchful for the Interest and Reputation of an Infant-Hospital, supported only by annual Contributions ; and tender of the Treatment of the helpless Wretches committed to their Protection, had regarded a *free* Action of yours with a jealous Eye, which, on a less delicate Occasion, had passed uncensured ; 'tis possible the easy Public might have given some kind of Credit to the Gloss you put upon it. But to amuse us with the Tale of a Conspiracy, formed against you by Men of Virtue, Character, and Reputation, no body knows why nor wherefore, is indeed, Sir, presuming a little too far upon the public Credulity, open as it is to every Scandal that may be thought to reflect Dishonour on a great and illustrious Character. For so extravagant is your Charge, that it seems principally levell'd against one of the greatest private Characters that perhaps ever arose in any Age or Country. Who, whether

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whether you consider him in his Civil, Social, Moral, Religious, or Domestic Capacity, appears, in all, an Ornament to human Nature. And yet this Man, to whose Virtue the honest Times of Paganism would have raised Statues and consecrated public Monuments, sees his Character, by the peculiar Gratitude of the Age he so much redeems, brought into a kind of Compromise with that of Mr. *Archibald Cleland*, Surgeon at *Bath*.

And now, Sir, having fully made out what I proposed to shew you, that the Thirteen Governors were competent Judges of your *Intention*, that the Censure was equitable, their Proceedings legal, and that the Confederacy you talk of is a mere Chimera, I shall, for the present, take my Leave; and

*Am, &c.*

F I N I S.



1711

